

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION**

FREDERICK D. JONES,)	
)	
Plaintiff,)	
)	
v.)	No. 4:19-cv-00233-TWP-DML
)	
KELLY BROWN,)	
PHIL KAISER,)	
TRAVIS JONES, and)	
CARRIE EAST,)	
)	
Defendants.)	

**ENTRY GRANTING MOTION TO PROCEED *IN FORMA PAUPERIS*,
DISCUSSING ACTION, AND DIRECTING SERVICE**

Plaintiff Frederick D. Jones' ("Jones") "Prisoner Request to Proceed in District Court Without Prepaying the Full Filing Fee" ([Filing No. 2](#)) is **GRANTED** pursuant to 28 U.S.C. § 1915. While *in forma pauperis* status allows a plaintiff to proceed without *pre*-payment of the filing fee, the plaintiff remains liable for the full fees. See *Robbins v. Switzer*, 104 F.3d 895, 898 (7th Cir. 1997) (*in forma pauperis* litigants remain liable for the filing fee; "all [28 U.S.C.] § 1915(a) does for any litigant is excuse the pre-payment of fees"). The Court does not have the authority to waive the filing fee, and it remains due despite Plaintiff's *in forma pauperis* status. *Fiorito v. Samuels*, 2016 U.S. Dist. LEXIS 84869, at *5 (C.D. Ill. June 30, 2016) ("[c]ourt does not have the authority to waive a filing fee"); *McDaniel v. Meisner*, 2015 U.S. Dist. LEXIS 106067, at *12 (E.D. Wis. Aug. 12, 2015) (same). The filing fee for *in forma pauperis* litigants is \$350.00. No payment is due currently; however, the \$350.00 balance remains owing.

District courts have an obligation under 28 U.S.C. § 1915(e)(2)(B) to screen complaints before service on a defendant and must dismiss the complaint if it is frivolous or malicious, fails

to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief. Dismissal under the *in forma pauperis* statute is an exercise of the court's discretion. *Denton v. Hernandez*, 504 U.S. 25, 34 (1992). In determining whether the complaint states a claim, the court applies the same standard as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *See Lagerstrom v. Kingston*, 463 F.3d 621, 624 (7th Cir. 2006). To survive dismissal under federal pleading standards,

[the] complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Thus, a “plaintiff must do better than putting a few words on paper that, in the hands of an imaginative reader, *might* suggest that something has happened to her that might be redressed by the law.” *Swanson v. Citibank, N.A.*, 614 F.3d 400, 403 (7th Cir. 2010) (emphasis in original).

In this civil action, Jones brings claims against Defendants Kelly Brown, Phil Kaiser, Travis Jones, and Carrie East from the New Albany Police Department. Jones alleges that the Defendants violated his rights under the Fourth and Fourteenth Amendments when they searched his son's home without a warrant and without permission to search the house. The search uncovered drugs and drug paraphernalia and led to Jones being criminally charged and arrested. At this time, the Court has not determined that the action must be dismissed pursuant to § 1915(e) and therefore **shall proceed**. This ruling is without prejudice to the filing of a proper Rule 12 motion.

Because Jones is proceeding *in forma pauperis*, Federal Rule of Civil Procedure 4(c)(3) requires the Court to order service for the plaintiff. Accordingly, the Clerk is **designated** pursuant to Rule 4(c)(3) to issue process to Defendants Kelly Brown, Phil Kaiser, Travis Jones, and Carrie

East in the manner specified by Rule 4(d). Process shall consist of the Complaint ([Filing No. 1](#)), applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Entry.

SO ORDERED.

Date: 11/14/2019



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

FREDERICK D. JONES
Inmate No. 99863
FLOYD COUNTY JAIL
Inmate Mail/Parcels
P.O. Box 1406
New Albany, IN 47150

Kelly Brown
Phil Kaiser
Travis Jones
Carrie East
New Albany Police Department
311 Hauss Sq., Ste 131
New Albany, IN 47150